

DRAFT



LOSS TRUST FUND BOARD REGULAR MEETING

**Large Conference Room
7447 E. Indian School, Suite 300
Scottsdale, AZ 85251
Wednesday, February 2, 2005 at 8:00 a.m.**

MINUTES

PRESENT: William Chamberlain, Chairman
Barbara Gatlin, Vice Chairman
David Bresnahan, Boardmember
Tom Hartley, Boardmember

ABSENT: James Hickok, Boardmember (excused)

STAFF: Craig Clifford, Financial Services General Manager
Myron Kuklok, Risk Management Director
Paul McKee, Risk Services Manager
Joe Mardeusz, Senior Benefits Analyst
Ricka Hughes, Administrative Secretary
John Cocca, Deputy Chief of Police
Ray Schultz, Deputy Chief of Police

GUESTS: Chris Davis, Marsh USA, Inc.
Steve Beck, Marsh USA, Inc.

CALL TO ORDER

Chair Chamberlain called the regular meeting of the Loss Trust Fund Board to order at 8:05 a.m., noting a quorum with four of the five Board members present.

ROLL CALL

The roll call indicated those members present as indicated above.

MINUTES APPROVAL:

APPROVAL OF NOVEMBER 16, 2004 MEETING MINUTES:

Chairman Chamberlain moved to approve the November 16, 2004 meeting minutes, with the following revisions:

- Page 4, second paragraph under General Liability subheading of Six-Year Overall Loss Performance was clarified to read: "... that the frequency figures for the June 30, 2004 valuation will not change, but if additional losses come in subsequently for any previous respective fiscal year, they will be reflected in the June 30, 2005 valuation."
- Page 6, last sentence of the first paragraph under Loss Trust Fund Condition was deleted and replaced with the following: "It is unlikely there will be any further one-time changes of this kind as internal procedural steps have been taken to eliminate this error. At current reserve and expense rates, the shortage should be largely, if not all, made up by June 30, 2005."

Boardmember Bresnahan seconded the motion, which carried unanimously.

APPROVAL OF NOVEMBER 13, 2003 MEETING MINUTES:

The Board previously reviewed the November 13, 2003 meeting minutes at the November 16, 2004 meeting, but did not officially approve them even though no changes were recommended at that time.

Boardmember Bresnahan moved to approve the minutes as written. Chairman Chamberlain seconded the motion, which carried unanimously.

NEW BUSINESS

A. ELECTION OF CHAIR AND VICE CHAIR FOR CALENDAR YEAR 2005:

Chairman Chamberlain mentioned his term expires October 2005. Boardmember Bresnahan offered his name as Chairman. Chairman Chamberlain seconded the nomination, which carried unanimously.

Boardmember Gatlin offered her name as Vice Chair. Chairman Chamberlain seconded the nomination, which carried unanimously.

B. DISCUSSION ABOUT MARSH AND MCLENNAN REGULATORY PROBES:

Boardmember Hartley recused himself from the discussion.

Mr. Kuklok gave the Board some background regarding the City's insurance brokerage services contract and the recent regulatory probes by the New York Attorney General. The major assertions against Marsh are:

1. Bid rigging
2. B quotes
3. Accommodation quotes
4. Master Service Agreements ("MSA") involving contingent commissions

Recently, Marsh struck an agreement with the New York Attorney General to set aside \$850 Million in funds for restitution on the MSA agreements / contingent commissions.

Mr. Kuklok explained the City may be involved because the City's Excess Liability and Excess Workers' Compensation policies that were purchased and procured through Marsh's global broking operations. The City may also be directly involved in the contingent commission aspect.

Representatives of Marsh's local team were invited to this part of the meeting to tell the Board what they have done to address these issues.

Mr. Kuklok asked the representatives to explain how the City of Scottsdale's account has been involved in the probe, what the effects of it may be, and what can we expect in the future.

Mr. Davis explained what steps Marsh has taken since the probe began in October 2004.

Marsh brought in an outside law firm to work with one of Marsh's internal investigating groups. Together they started a nationwide audit of documents, files, e-mails, etc. to identify any clients that were negatively affected. Very few cases have been found. Marsh does not believe the City is or will be involved based on the reviews so far.

Mr. Beck stated there are no City of Scottsdale placements of its Excess policies with anyone affiliated with the Marsh New York office. None of Marsh's Arizona public entity clients have been involved. Most of the City's placements are made through staff in San Francisco.

Boardmember Bresnahan asked how many companies Marsh uses to make placements for public entity Excess policies. Mr. Beck answered for primary Excess policies, there are two or three companies that would consider the broad form coverage for the first layer Excess. For secondary Excess policies, there are approximately five or six companies. Some of the companies in the secondary Excess market are also in the primary Excess market.

Boardmember Bresnahan stated his issue with this situation is: how does the City know if it got a good bid? Mr. Davis answered the primary way to determine this is through the internal Marsh investigation. The second way is because Mr. Kuklok is actively involved with the Marsh local office in the placement of the City's policies. Mr. Beck stated the local Marsh office shares every piece of information from the carriers with Mr. Kuklok.

Mr. Kuklok explained, based on the information Marsh provides him from the underwriters, he makes a preliminary selection of insurers. Mr. Clifford stated he and Mr. Kuklok then discuss the matter, and Mr. Clifford makes the final determination as to the appropriate balance of coverage against budget.

Boardmember Bresnahan asked if Marsh uses a certain select number of companies or does it go further to seek quotes. Mr. Beck responded by saying Marsh goes to every possible source for quotes.

Mr. Davis stated, as a result of the probes, there is no longer a separate entity called global placement. That group is now a part of the different units to augment when specific expertise is needed or requested. Mr. Davis also noted that, as of October 2004, Marsh discontinued MSA agreements/contingent commissions, even though they have been a longstanding industry practice for all brokers and agents.

Regarding the bid rigging assertion, Mr. Kuklok asked the Marsh representatives, to the best of their knowledge, they are saying and representing that the City of Scottsdale account was not involved in any bid rigging. Mr. Davis and Mr. Beck responded affirmatively.

Regarding the \$850 Million in restitution for the contingent commission assertion, Mr. Kuklok asked the representatives if the City of Scottsdale would be in line to get a portion of the restitution. Mr. Davis responded possibly.

Mr. Kuklok then asked how Marsh will identify who gets restitution and how much money the City could expect to receive. Mr. Davis answered with Marsh is in the process of calculations for those clients that are US based and worked through placement operations. This should be done on or about April 30, 2005. Based on the calculations, the City could be eligible for some percentage of that fund, paid out over a four-year period. He is not able to predict what the City's return could be because there are factors that need to be considered.

Mr. Kuklok mentioned there are currently other probes pending from other states besides New York, and we'll have to wait and see how those progress. He then asked if Mr. Davis or Mr. Beck know of any probes initiated by the State of Arizona. Mr. Davis responded that an initial inquiry by the Arizona Attorney General was presented to Marsh. He is not aware of any further action being taken at this time.

Mr. Kuklok next asked why the City of Scottsdale should continue to do business with Marsh. Mr. Davis replied there are several reasons: 1) He is confident that the staff of local office are ethical, honest and have the City's best interests in mind; 2) Marsh is very committed to its Arizona public entity clients; Marsh has a very strong expertise and understanding of that business; and 3) Policies and business practices are being implemented to bring complete transparency to its clients – every and any income earned on the City's behalf will be disclosed.

Mr. Clifford and Boardmember Chamberlain inquired if they could get copies of the written standards of conduct for the placement of insurance when they become available. Mr. Davis stated this should be done by the end of the first quarter.

Mr. Kuklok finished by asking how Marsh plans to recoup its losses it has incurred as a result of this investigation. Mr. Davis answered that Marsh does not expect to make up all those lost revenues by implementing additional fees or anything like that.

C. DISCUSSION WITH POLICE DEPARTMENT MANAGEMENT ABOUT TRAINING AND LOSS PREVENTION EFFORTS:

Mr. Kuklok explained to the Police staff present that, at the last board meeting, the subject of training injuries came up as part of Mr. McKee's safety presentation. The current meeting is to clarify what is being done internally to address injuries and loss prevention.

Deputy Chief Cocca started by saying training is a constant component of the Police Department. An example of a recent improvement is they will be installing sensors on their fleet to mitigate vehicle backing incidents.

Deputy Chief Schultz listed several ways in which the Police Department is addressing training issues, such as:

- Training is spread out over time instead of all at once.
- More stretching before and after training exercises.
- Emphasis on performing training tactics at lower degree of intensity.
- All Chiefs have gone through training to look for potential problems. Some examples of issues they have resolved as a result are:
 - Vascular neck restraint – officers now perform the take down tactic on hands and knees as opposed to standing, reducing fall injuries.
 - Taser – if an officer wants to volunteer to feel the effects of a Taser, the officer must be lying down instead of standing, reducing fall injuries.

Boardmember Chamberlain asked about annual physicals. Deputy Chief Schultz answered by stating they are not required to have annual physicals but have developed other programs, such as incentive based wellness. Deputy Chief Cocca stated the department does not require annual physicals but does require annual fitness testing for officers. Discussion followed regarding the feasibility of the City's health care providers providing annual physicals for police officers.

Mr. Kuklok and Mr. McKee then detailed what steps Risk Management has taken to help the Police Department mitigate training injuries. Deputy Chief Schultz mentioned that cadet officers are the majority of training injuries incurred during academy. One program they hope to have in place by July 2005 is a pre-academy process. This will be a four-week program to get cadets in better physical health when they attend academy.

Another training-related item discussed was K-9 bites. The majority of problems are due to the dogs' behavior. The officers wear protective gear as much as possible.

Deputy Chief Schultz also mentioned the department has also hired a new personnel manager whose main focus is to track employee injuries and assignments.

Boardmember Hartley suggested the City consider an arrangement with a physical therapy rehabilitation vendor to work with the department from a prevention point of view rather than rehab.

Boardmember Chamberlain strongly recommended the department require officers to undergo annual physicals as part of the City's health care package. Mr. Mardeusz explained the City's health care plans are designed for annual physicals upon the recommendation of the employee's physician. Mr. Clifford stated mandating physicals, even though covered under the plans, because the City is self-insured, the costs to the City would increase.

D. ADDITIONAL COVERAGES/EXPOSURES FOR FIRE DEPARTMENT:

Mr. Kuklok stated when the Fire Department comes on board, some of those employees will be Paramedics and EMT's. The potential exposures of these medical professionals are already covered in the City's policies. The City expects zero or little additional premium increases for liability. Rural Metro statistics reflect a very good loss history. Most of the losses occur in the Workers Compensation area.

Boardmember Hartley asked about the level of medical malpractice claims. Mr. Kuklok responded by saying that the loss experience data for Scottsdale provided by Rural Metro reflected a very low medical malpractice level of claims. The actuaries, and internal projections, took that into account in forecasting prospective loss levels and costs. Mr. Kuklok stated that, hopefully, the City Fire Department will experience a similar low level of claims.

Mr. Clifford brought up the Loss Trust Fund and next year's budget. One of the things he and Mr. Kuklok have been looking at is how much should be forecast for the Fire Department's pro-rata share of reserves for health benefits and property-casualty losses. Mr. Clifford estimated approximately \$1 Million (\$600 Thousand benefits; \$400 Thousand property-casualty) will be needed to meet reserve requirements for the new department.

Boardmember Chamberlain moved to recommend that the City Finance Department, in anticipation of unexpected first year losses based on new fire department and other unforeseen circumstances related thereto, increase the Loss Trust Fund by up to \$1 Million as soon as possible, for both property-casualty losses and health benefits.

Boardmember Hartley seconded the motion, which carried unanimously.

E. DISCUSSION ABOUT DEFINITIONAL DIFFERENCES WITH GROUP HEALTH TERMINOLOGY:

Mr. Kuklok provided the Board with definitions of the different and common terms used by actuaries for Group Health forecasting of losses. Boardmember Hartley expressed some concern because the city is a public entity and, as such, the definition of IBNR only (instead of breaking the terms out to define where in the pipeline a claim is) can mislead the public into thinking all the parts are not considered. He believes the actuary should be factoring into its actuary projections IBNR, reserved but not yet paid, and paid from prior year claims.

Mr. Mardeusz suggested the City use "Incurred but not Received" in its actuary reporting. He also suggested staff make it clear to the actuary what our intent and expectations are when using this terminology. Chairman Bresnahan directed Mr. Kuklok to find out if that terminology is compatible with the actuary. The Board recommended the City's actuary use the term "Incurred but not Received" (IBNR) to encompass all claims incurred until final payment in its Group Health actuary reports, if possible.

F. PUBLIC COMMENT:

Boardmember Hartley commented as a citizen regarding the Marsh regulatory probe discussed earlier. He mentioned the influence and negative aspects on the Marsh organization of a few employees operating outside of job parameters. Regardless, Marsh has taken steps to improve its business practices and looks forward to the future.

G. ADJOURNMENT:

With no further business to come before the Board, being duly moved, the regular meeting of the Loss Trust Fund Board was adjourned at 9:55 a.m.

Respectfully submitted,

Ricka Hughes
Administrative Secretary